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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,519	10/24/2003	Dale K. Hitt	DSI-P104	1152
32566	7590	04/07/2005		
PATENT LAW GROUP LLP 2635 NORTH FIRST STREET SUITE 223 SAN JOSE, CA 95134			EXAMINER STONE, JENNIFER A	
			ART UNIT 2636	PAPER NUMBER

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/692,519

Applicant(s)

HITT, DALE K.

Examiner

Jennifer A Stone

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/28/04 & 10/24/03</u> . | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

1. Claim 1 is objected to because of the following informalities: "node" in line 6 should be changed to "nodes". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "the radio frequency" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 3 recites the limitation "the radio frequency" in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim.
5. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how "power" is measured between a neighboring pair of nodes. For instance, measuring amplitude or another component of power would render the claim definite.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Price (US 5,049,858).

Price discloses a wireless sensor system comprising: A plurality of wireless nodes (col 2, Ins 63-66; Fig. 2, item 30), each wireless node including a wireless transceiver (Fig. 2, item 30 – Xmtr, Rcvr) transmitting over the radio frequency (RF) spectrum and a processor (Fig. 2, item 16), the plurality of wireless nodes being distributed over an area (col 1, Ins 5-8), wherein the plurality of wireless nodes determines the presence of an object within the area by measuring the RF power between a neighboring pair of wireless nodes (col 3 Ins 5-14).

Allowable Subject Matter

8. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claim 3 must overcome the 35 U.S.C. 112 rejection before an allowance is considered (see paragraph #3 above).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Houston (US 6,801,128) discloses an infrared beam emitted from a plurality of nodes that detects an object based on the signal strength between neighboring nodes.

Shruburne et al. (US 5,621,388) discloses a plurality of RF transceiver units that detect (based on signal strength) if an object is located beyond a predetermined area.

Narcisse (US 4,675,656) discloses a plurality of transceiver devices that monitors an object within a predetermined area if the signal output between the transceivers drops below a predetermined level.

Curatolo et al. (US 6,606,556) discloses detecting an absence of a radio wave between two signaling units for tracking an object.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Stone whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone
March 31, 2005



**BRENT A. SWARTHOUT
PRIMARY EXAMINER**